

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
August 5, 2013**

Meeting was called to order at 6:19 p.m.

Members Present: Mr. Snow, Chairman, Ms. Caisse, Mr. Harding, Mr. Parys, Ms. Scott-Pipes, Mr. Schmid, and Mr. Tufts,

Also Present: Patrick Gullivan, and Carol Logue, Secretary

Agenda: Motion to accept the agenda Mr. Tufts. Second Mr. Schmid. Motion passed by unanimous vote.

Reorganization: Motion to appoint Frank Snow as Chairman Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote. Motion to appoint Richard Harding as Co-chairman Ms. Scott-Pipes. Second Mr. Schmid. Mr. Harding: will accept for now, because Frank has to recuse himself from 214 Clapp Road. Motion passed by unanimous vote.

Motion to have Howard Matthews as an Associate Member in charge of trails Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

David Ball, Seawall Committee: Handed out some seawall reports from 2011. There are 71 sections listed on the chart, not 71 different sections. Protection measure is broken into sections. Oceanside has 3 or 5 different sections. DPW has original report. Town has been looking at seawalls for years. All are getting worse, conditions are troubling, and repair cost is huge. Was asked to come here to give a quick update. Seawall Committee is trying to come up with funding. Kevin Cafferty is chairman. He has an issue of decks going up to the seawalls. Often times they are built in such a way they stay up year around. On Turner Road there were a couple of decks that were problems; need to get equipment on both sides to repair; need at least 15'. About a year half ago started to address how to deal with this, but not enough time to review; was postponed. A bigger issue, need some mechanism in place that makes the homeowner responsible to remove the deck if it is going to the seawall; not all that difficult to do. Maybe allow the decks from April 15 to October 15 and then remove. If not and they are damaged by working on the seawall, up until this point the town is somewhat responsible for repairing the deck. It would be a fairly easy problem to solve, simple bylaw that states decks be removable, not the posts, but everything else. Some lift up against the house; that works quite well. Don't want the town to repair the seawall and have extra cost to fix someone's deck; uses up precious resources. Mr. Snow: when we have done orders recently, we have concerns that decks can bring water into the homes. One of the issues relayed to applicants is that the decks should not be attached to the seawalls and have some sort of walkway to the seawall. Also encourage them to make them removable. In the orders can we tell people to remove? Mr. Gullivan: Not sure. Mr. Snow: We have in the past. There are several permitting entities. We are all aware of sea level rise. Committee has not had a lot of feedback from the TA or Selectmen. Mr. Schmid: Difficult in a lot of circumstances to have a deck 15' back from a seawall. Ideally it would be about 15'. Don't want to make it that a deck can't be built out to a seawall, but it could be removable. Ms. Scott-Pipes: if it became a bylaw then all decks from now on would be removable. Mr. Snow: all will come through the Commission, but after storms there were conflicting views.

Request for Determination: S.C.W. Corp., 150R First Parrish Road (grease trap)

Greg Morse from Morse Engineering was present at the hearing. This is the Mill Wharf Restaurant. Proposing to install a 5,000 gallon grease trap and a new pipe from the corner of building to 80' from the harbor, then the grease trap connects to a sewer manhole. Resource area is land subject to coastal storm flowage at elevation 11'. All work is within the asphalt; minimal potential for erosion. Will dig the hole, place the tank and fill in one day. Ms. Scott-Pipes: where is the existing grease trap? Small one under the sink, manhole is clogging. Board of Health has approved. Mr. Snow: Control any runoff if rain is expected. Will find the closest catch basin and surround it with erosion controls. Work should take 2 days, unless something breaks down. Mr. Schmid: Is there some standard that has to be met regarding the raw material? The assumption is as long as the grease trap is sized according to the number of seats, it is sufficient. It covers just the kitchen. Mr. Snow: Pumping schedule? Believe once a month. Both manhole covers are brought to grade. Motion for a negative 3 - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Martignette, 24 Manchester Street (12'x13' deck replaced with 16'x24' deck)

Michael Biviano was present at the hearing. Proposing to remove existing deck which has footings now, but they are not up to code and need 4 additional pilings or piers. New deck will be 16' x 24'. Hand dug sonotubes, 10" wide to accept the new deck. AE flood zone. Leave the stairs and new deck goes to the corner of the house. Area has very limited vegetation. Mr. Harding: Part is supported on cinder blocks. Mr. Gullivan: only thing cinder blocks need to be replaced. Mr. Bjorklund: asking for the approval to remove all old footings and add 4 additional. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Remove all old material. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Gordon, Ocean Ave. (new build & septic) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to August 19, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Biviano, 6 Cliff Road (septic)

DEP denied, back to engineer. Motion to continue to 6:40 p.m. August 19, 2013 Ms. Scott-Pipes. Second Mr. Harding. Vote reconsidered. Motion to continue to September 4, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Duffy, 271 Central Ave. (timber piles to support existing pier)

Judy and James Duffy were present at the hearing. A couple of pilings came down and another is about to. Need to replace the two and remove and replace the other. Mr. Gallivan: letter from Mark Stevenson a few months ago laid out how he was going to do the work. When there is another open file, we want to know that there has been progress on the other conditions. Some trees were requested to be planted. Middle of August they are going in. Expected to be done in the summer, but have to move the pods. Two rhododendrons and a hydrangea were planted in back. Pulled the float and dock into the paper road. They have to come out. The pods are on the gravel part of the driveway, will have to be taken to another location in order to plant the trees. Thought the pods would be there for only 2 or 3 months. Nothing has gotten touched for a long time. DEP said they would like to see the pier repaired; no impact to the river. Want a letter from Mark prior to work, to make it part of the RDA. Ms. Scott-Pipes: concern that the original enforcement order was not taken care of. Trees should have been planted last year. Mr. Harding: a lot of the stuff that has been done has been done well. Need to set time line to get the float out. Needs to be out by the end of August. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." a letter from Mark Stevenson, float removed by the end of August and trees planted Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Nashen, 272 Central Ave. (septic repair) (cont.)

Has Board of Health approval. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Discuss violations: 181 Edward Foster Road: horse is gone; Ann Vinal, Gardiner, 155 Chief Justice Cushing, Country Way, 33 Eisenhower, Marilyn, 49 Seaside

101 Ann Vinal Road: Sent a letter trying to gain entry. Visited the site and looked at it from the street. Should start writing to the two adjacent properties to see if we can get cooperation to clean up. There are several violations along that street. The person is not responding, might try a non-criminal ticket. Mr. Snow: anyway we could start by you meeting with them? Send a letter stating that it appears there are some issues and request to meet on site; ease into it and bring some Commission member too. Make gradual improvements, but the improvements have to start. Mr. Snow: Some of these people don't respond; sensitive areas; some of them have been there for a long time. Should stipulate what we want done within a certain time frame. Mr. Schmid would be happy to do that.

73 Kent Street – they have been told to remove the material that they put in to the left and rear. Ms. Scott-Pipes: they haven't done a thing. Definitely was left with the impression that it would be done by the end of the week. Mr. Snow: ended up with the wrong plan from Conservation. The plan should come from the engineer. Seems like some liability. Mr. Snow stated he doesn't go to the building department assuming they have the order and plans. He had the wrong plan, it wasn't dated correctly. Ms. Scott-Pipes: made it clear to them to contact the engineer. There was a lot of the information in the Order of Conditions. Removing the material is not even one day of work.

136 Indian Trail: we need elevation and revised plan. Contractor built it a little different from the approved plan. Mr. Snow: the abutter brought it to our attention. In the e-mails they are making statements like they are working things out with the abutter. That isn't how it works. It is a significant violation. Talked to engineer, issue was with the property owner, they received the Order of Conditions. Submit existing plans by August 19. Put on the agenda for the 19th. Was very clear they have to go by the approved plans. There are other abutters that could be impacted.

85 or 87 Maple: Adam Brodsky, Environmental Lawyer was present at the hearing. Several members saw this violation. Sorry to be here in front of you on this. Ken Duval cleared the land last year. Concern by neighbors and questions about stormwater permit. Was aware of the BVW. Jim O'Connell had been out to site and there had been no work in the wetland or buffer. Created a drainage swale. Stockpile was just at the 100' buffer, moved and put in erosion controls. It was decided that the disruption required a stormwater permit. Hired Morse Engineer, stormwater permit is in process. Mr. Duval also encroached onto town-owned land with the clearing. Will pull all the material out and do a replication plan. Plan that had been prepared actually has an isolated vegetated wetland, which is subject to regulation under the bylaw. Jim didn't see it, no one saw it, but once seen, disclosed that information to Pat & Laura. Will put together a plan and pull material out of the IVW, will consult with Brad Holmes. No question we will restore the town land. Will submit a NOI and stormwater permit. Trying to get this all done. It has been a series of terrible mistakes. Mr. Snow: nothing else had to be stabilized right now? Haybales in back, but not much can be done for the isolated wetlands. Don't want to see any activity there until approved. Get all of the different resource areas located. We are looking at the stream in back to see if it is a tributary. No activity, until approved. There is a lot of information to cover. How much of the isolated wetland was disturbed? What to do with the ground up asphalt? Mr. Gallivan: Mr. Brodsky, Mr. Morse and Mr. Duval have cooperated. Need to make sure all the resource areas are located. Talked to Brad Holmes, separate from the NOI; try to figure out the isolated wetland. Ms. Scott-Pipes: time frame? Restoration/replication base plan already done. Between now and the next hearing will meet with Brad on site. Not going to be using the property. Believe there is a boat trailer there now.

Wetlands Hearing: Fern Properties, 214 Clapp Road (9 lot subdivision)

Frank recused himself from the hearing. Mr. Harding opened the hearing. Applicant's representative requested a continuance. Motion to continue the hearing to August 19, 2013 at 7:10 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Clark, Central Ave. (park boat trailers and floats)

Russell Clark was present at the hearing. Abutters' notification was submitted. Mr. Gallivan: Went through the ANOI. Spoke with Russell and his surveyor. This is a resource area - dune, marsh and barrier beach. It requires a full NOI and needs a professional wetlands scientist to

delineate the resource areas. There is no information on the number of boats. Stated not much could be done at the public hearing tonight without additional information. The other option would be to deny the ANOI and resubmit a full Notice. He brought it in the day we asked. Mr. Snow: abutter notification the same as a full NOI? Yes, same process. Have 12 lots altogether, hoping to use for storage of a couple of trailers, and maybe floats in the winter. Contacted Lenore White, left message, hoping to talk to her tomorrow. The area shown on the plan is the area proposed for storage. Asked John Keefe to stake it out. Storage area is a mix of dune grass and crab grass, not indigenous to the area. Ms. Scott-Pipes: took plan and scaled out the 50' and 100' buffer and the riverfront's 100' and 200' riparian zones. Don't know where to begin, know you shouldn't be storing things there. The group of abutters showed photos and petition with signatures. Mr. Schmid: Have been talking about this for a while. Whatever we find, we should move forward quickly. Read from bylaw: building permit is required for all temporary trailer storage - a \$25 a day fine is in effect as long as the violation persists. The building commission shall be charged with the interruption of this bylaw. Mr. Snow: be careful that we don't interfere with another board or department. We need to stick to wetlands and/or DEP issues. Mr. Harding: whether or not approval is given, really think it is backwards, just feel this should have come in a long time ago. Whatever, things should be removed now and if approved can go back. Mr. Parys: consistency, don't want to see Russell signaled out. Follow the regs and not make up rules as we go along. Ms. Caisse: 2 trailers. One is his and one is a customers. Is it your intent to store other people's trailers on your property? There isn't much room in Humarock. How large are the floats? One would be about 10' x 16' and 2 more 6' x 12'. Saw the photos with the whole area flooded. Whatever was on the lot would end up in the river. Mr. Gallivan: that is some of the information we need - how big, how many, would it be removed, etc. We allowed you to file, but if we don't get the information, we will have to deny. You have been given many chances. Mr. Harding: Lisa did bring up a good issue with the concern that what is stored there could float away, that is a major concern. Last year might have been a bad year, but it can happen again. Mr. Clark: may ask Mr. Harding to recuse himself. Mr. Snow: one thing, when we request information, we need enough time to look at. Regardless of how many people have signed a petition, it is the same process for everyone. Make sure we get all the information we can, and hear from the people grieved. Keith Jansen, 148 Central: For the record all those pictures shown were contained in e-mails sent to agent. Humarock is a barrier beach, inaccurate what engineer did, off by 50'. It is an abridged version, grossly inaccurate. Cedar tree isn't doing too well, deep roots, plant life damaged. One of the floats was picked up, and track marks continued to the back. This area does flood, 3 storms in 3 months. Let's hope we don't have another winter like the last one. It was 100% under water. Prior use and what has been done in the past; a lot of things change over time. In 1897 land spanned 3rd cliff and 4th cliff. A lot of people are passionate about this. Asking to have materials removed, have 53 signatories, want complete removal of the materials. Bill McKinnon, 168 Central Ave.: Don't understand why the town divided this property into lots. Why did the town decide to divide that up and sell it? This is what caused the problem. It should have been conservation land from the start. He understands where Russell Clark is coming from, but don't think it is appropriate to use as a business, not the right type of land. Mr. Snow: we have to stick to the wetland issues. Mr. Clark owns it. Conservation Commission is a proponent for CPC to acquire open space; maybe it is potential for CPC. Robert Branca, 164 Central: that land is the last vestige of anything natural. Originally got subdivided and dredging done in the late '40s. There are critters, wildlife, and birds. Somewhere there has to be a middle ground. This year according to some people in the Humarock Beach Association group, Conservation has denied the use of the town truck on the beach. Mr. Snow: not sure where that came from. You will find we are frustrated too. State may not allow, but don't believe it was this Commission that didn't allow it. Bought ice cream from his grandmother, I respect the Clarks; don't want to see him hurt. There are several people that would buy the property and not do anything with it. No one here is personally against Mr. Clark. Keith Jansen: There is a zoning bylaw that falls under ConCom. No permit shall be granted in a natural area. Bill McKinnon, 168 Central Ave.: Can we store small docks and not large docks? Mr. Snow: this is not the first hearing and hearings get continued for more information. Significant violation, have to go through a process to get it remedied. We will try to go through the process as correctly as we can. We understand your concerns. There was a big area dug out down the road. Looking at that spot also, somehow that got altered, as curious about that as well as this piece. Several areas have been altered. We try to address all those things as best we can. Mr. Branco: gully was opened up, contractors went up and down it and at one point the ocean and river met. Motion to have everything removed until this is settled Ms. Scott-Pipes. Mr. Snow: again Mrs. Duffy had multiple violations that went on and on and there are other places too. This has been going on a long time, just making a motion. Second Mr. Schmid. We are talking about 2 trailers, and 2 or 3 channel markers. Mr. Parys: is the excavator still there? Russell shouldn't be the first guy to have a short deadline. Ms. Caisse: Excavator at 31A across from 242 Central has been gone for weeks. Motion failed by a 3 to 4 vote. Ms. Caisse: the reason torn, need continuity and everyone judged by the same rules. Every trailer in Humarock should go? Letters are going out. This is a start. Mr. Snow: Duffy's trees should have been planted a year ago. As an example, where do we tell people to store their trailers? They store them on the same resource. Yes, we are frustrated, they can't wait for approval for their projects, but we ask for something and they don't get back to us. I'm not sure I have enough information. We want people to submit filings prior to doing the work. Where are we? Four haven't voted. Not ready to tell him to take them off yet until we get the information we need. Ms. Caisse: Can we get a drop dead date? Mr. Gallivan: If the deadline is missed, want to avoid readvertising and paying fees again. John Stanton, 130 Central, built a few years ago. Everything had to be tied down. To leave this stuff that could be washed away, it is offensive to abutters. Mr. Snow: Motion didn't pass. Residents and the Commission are frustrated with the amount of time this has taken. Mr. Gallivan: could show some good will if trailers were removed. The last buoy could go to the transfer station. If he had a place to move the trailers, he would. Keith Jansen: rotting junk that has been left there. Mr. Snow: would like to see an agreement here. Mr. Gallivan: Is it realistic to get information in by the end of the week with a wetland scientist? Need the information a week before the meeting. Motion to continue the hearing to September 4, 2013 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Order of Conditions: Sheerin, 124 (Lot 3) Mann Hill Road (new build)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Certificate of Compliance:
 26 Peggotty Beach Road - OK
 161 Summer - No site visit yet.
 109 Humarock Beach - OK

Ms. Scott-Pipes: would love to see the bylaw changed regarding the decks and seawalls. Mr. Parys: have to be careful, they all vary. Mr. Snow: Commission is going to condition all those seawall projects. The first question is who owns the seawall? That varies. We should be

part of the process since we will be conditioning all the projects. Mr. Schmid: FEMA came down and talked to the Waterways Committee there was a grant a couple of years ago, but he doesn't think the town could match it. If the town applies for funds, wonder what conditions FEMA places on what is done. Mr. Snow: Has the TA talked to you at all about the FEMA maps. What are her expectations? Mr. Gallivan: Trying to get a FEMA person down here. FEMA isn't sending people out. Believe we are going into Boston to meet with anyone we can this week. She met with Cantwell. Community meeting in Marshfield with Scituate and some other town. Rosemary Dobie: selectmen have it on their agenda tomorrow night. Is there an appeals process? Appeal period started July 20, ends October 17. Mr. Snow: FEMA broadened the net. If you raised your house to 16' and had a break in insurance, and it is now 17' . . . They will get you within 5 years no matter what. Ms. Scott-Pipes: People are up in arms.

CORRESPONDENCE
July 23, 2013 – August 5, 2013

1. Recording of OofC 68-271 – McCormack, 43 Wampatuck Ave. (in file)
2. Planning Board Stormwater permit – 370 Hatherly Road – Approx. 19,500 sq. ft. will be disturbed, not within 100' of wetlands. COMMENTS by August 7.
3. Request for CofC – 68-2193 – 26 Peggotty Beach Road – Request, As-built, engineer's letter & check (in file)
4. Book - "More Than a Woodlot" getting the most from your family forest - a Northern Woodlands Book
5. Notification to abutters re: Fern Properties, 214 Thomas Clapp Road (in file)
6. The Beacon
7. NFIP/CRS Update
8. Revised plans for 68-2464 – Ocean Ave. (new build & septic) (in file)
9. Notification to Abutters re: Katherine J. Ayers, 64 Moorland Road (1st floor addition & 2nd story deck) (in file)
10. Planning Board re: 214 Clapp Road – Meeting 9/12. COMMENTS by 9/4/13.
11. Issues & Pictures of 315 Central Ave.
12. DEP File #68-2472 – Town of Scituate, TA – 208 Front Street (town pier) (in file)
13. DEP File #68-2473 – Clark, Central Ave. (in file)
14. DEP File #68-2473 – Fern Properties, 214 Clapp Road (in file)
15. Planning Board agenda for August 8, 2013
16. Request to continue Benjamin Studley Farm, 214 Clapp Road to August 19.
17. Recording of OofC for 68-2467 - Privitera, 121 Turner Road
18. Directions Newsletter - Woodard & Curran
19. Request to continue Ocean Ave. to the next available meeting.

Meeting adjourned 8:30 p.m.
Respectfully submitted,

Carol Logue, Secretary